

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: David & Sharon Kennedy )  
Dist. 3, Map 131B, Group B, Control Map 131B, ) Claiborne County  
Parcels 15.00 & 16.00, S.I .000 )  
Residential Property )  
Tax Year 2007 )

## INITIAL DECISION AND ORDER

### Statement of the Case

The subject property is presently valued as follows:

### Parcel 15.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$60,000	\$ -0-	\$60,000	\$15,000

## Parcel 16.00

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$30,000	\$ -0-	\$30,000	\$7,500

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 19, 2007 in Tazewell, Tennessee. In attendance at the hearing were David and Sharon Kennedy, the appellants, Claiborne County Property Assessor's representative Judy Myers, and Ryan Cavanah, RES, an appraiser with the Division of Property Assessments.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of two steep lakefront lots located on the main channel of Norris Lake in the Cape Norris Subdivision in New Tazewell, Tennessee. Parcels 15 and 16 contain .36 acres and .41 acres respectively.

The taxpayers purchased both lots on March 3, 2004 for a total of \$25,500. According to the taxpayers, they purchased both lots in order to create a building site suitable for a septic system.

The taxpayers contended that subject lots should be valued at \$18,800. In support of this position, the taxpayers testified that subject lots were appraised at \$18,000 by the assessor from the time of their purchase until the 2007 countywide reappraisal program.<sup>1</sup> In early 2007, the taxpayers received assessment change notices indicating subject lots had been reappraised at \$18,800. On or about May 24, 2007, the assessor issued a new set of assessment change notices indicating subject lots had been reappraised at \$100,000 each.

<sup>1</sup> Claiborne County was previously reappraised in 2002. Normally, the value set in 2002 would not change until the next countywide reappraisal program effective January 1, 2007.



The taxpayers appealed to the Claiborne County Board of Equalization which, in turn, appraised parcels 15 and 16 at \$60,000 and \$30,000 respectively. The lower appraisal of parcel 16 reflects the fact it does not percolate.

The taxpayers asserted that the original reappraisal value of \$18,800 should be reinstated. The taxpayers argued that such a value is consistent with their 2004 purchase price and reflects the loss in value subject lots experience due to their topography and location at the end of a dead-end road in a subdivision lacking the amenities found in other nearby lakefront communities.

The assessor contended that subject lots should be valued as a single building site at \$98,000. In support of this position, the testimony and written analyses of Ryan Cavanah, RES was introduced into evidence. Essentially, Mr. Cavanah analyzed three comparable sales which he asserted support a building site value of \$98,000.<sup>2</sup> Mr. Cavanah noted that in 2006 thirteen (13) lakefront lots sold in Claiborne County for a minimum of \$62,000 and maximum of \$209,000. As summarized in exhibit A to his reports, the mean and median purchase prices were \$114,192 and \$100,000 respectively. Mr. Cavanah placed greatest weight on the sale of parcel 35 on October 4, 2006 for \$98,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that parcels 15 and 16 should remain valued at \$60,000 and \$30,000 respectively based upon the presumption of correctness attaching to the decision of the Claiborne County Board of Equalization.

Since the taxpayers are appealing from the determination of the Claiborne County Board of Equalization, the burden of proof is on the taxpayers. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject lots on January 1, 2007 constitutes the relevant issue. Respectfully, the administrative judge finds that the taxpayers did not introduce any recent sales to substantiate their contention of value.

The administrative judge finds that the taxpayers' March 3, 2004 purchase of subject lots cannot provide a basis of valuation for any of several reasons. First, the purchase occurred almost three years prior to the relevant assessment date. Second, the

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<sup>2</sup> Mr. Cavanah originally contended both lots should be valued at \$98,000. In response to the administrative judge's query, Mr. Cavanah revised his opinion of value on the assumption parcel 16 does not percolate and cannot therefore be used as a separate building site.



administrative judge finds Mr. Kennedy testified that although subject lots were listed for sale with a realtor, he contacted the seller directly in order to eliminate payment of a commission. Third, the taxpayers subsequently added a septic system and graded the road. Fourth, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990):

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

The administrative judge finds that the sales introduced by Mr. Cavanah indicate a significantly higher range of value for lots in the immediate area as of January 1, 2007.

The administrative judge finds the assessor's decision to initially reappraise subject lots at \$18,800 perplexing. However, the administrative judge finds that the assessor appropriately corrected an obviously erroneous appraisal while she still had the authority to do so. See Tenn. Code Ann. § 67-5-508. The administrative judge is unaware of any legal authority for the taxpayers' assertion that the assessor was somehow estopped from revising her initial assessment change notice.

#### ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2007:

##### **Parcel 15.00**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$60,000	\$ -0-	\$60,000	\$15,000

##### **Parcel 16.00**

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$30,000	\$ -0-	\$30,000	\$7,500

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:


1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization.

Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 27th day of September, 2007.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: David and Sharon Kennedy  
Kay Sandifer, Assessor of Property